

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**EGLO GARZA AND ANGELICA
GARZA,**

Plaintiffs,

V.

**EMSHVAC, LLC D/B/A EMS HOME
SERVICES,**

Defendant.

Case No. 5:24-cv-00353

MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANTS

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW Anthony G. Stergio and Nallely I. Rodriguez, attorneys of record in the above cause (“Counsel”), and make this Motion to Withdraw as Attorneys of Record for Defendants EMSHVAC, LLC d/b/a EMS Home Services and Jeff Mosley (“Defendants”) in the above-styled and numbered matter, and for cause would show as follows:

I.

Withdrawal can be accomplished without material adverse effect on the interests of the client and without unnecessarily delaying the due administration of justice in this matter.

II.

“An attorney may withdraw from representation only upon leave of the court and a showing of good cause and reasonable notice to the client.” *In re Wynn*, 889 F.2d

644, 646 (5th Cir. 1989). Federal law provides the rule of decision for determining whether good cause exists. *White v. BAC Home Loans Serv., LP*, No. 3:09-CV-2484-G, 2010 WL 2473833, at *2 (N.D. Tex. June 15, 2010) (citing *In re American Airlines, Inc.*, 972 F.2d 605, 610 (5th Cir. 1992)). The record must reflect an appropriate basis for granting leave to withdraw, and “unsubstantiated claims are insufficient.” *Fed. Trade Comm’n v. Intellipay, Inc.*, 828 F. Supp. 33, 34 (S.D. Tex. 1993).

Here, Defendants have been unresponsive to communications from Counsel throughout the past 30 days. See *Exhibit A*. Further, Defendants have numerous outstanding invoices in this case and have failed to communicate, despite multiple efforts throughout the past 60 days, whether such invoices will be paid. *Id.* The continued representation of Defendants will result in an unreasonable financial burden on Counsel.

Counsel has advised Defendants that they intend to withdraw from representation in this matter. See *Exhibit B*. Counsel has advised Defendants that they will need to find counsel to represent them or be prepared to represent themselves in this case. Counsel has provided Defendants this Court’s email address and phone number. Defendants’ last known mailing address is: 9603 Saunders Lane, Austin, TX 78758.

III.

Trial in this case is set for July 7, 2025. (Dkt. 12). The Discovery deadline is January 15, 2025. *Id.* Pre-trial Conference is scheduled on July 2, 2025. *Id.* The Motion deadline is February 4, 2025. *Id.* Plaintiff has propounded written discovery.

There are no motions currently pending before this Court in this case. Counsel has advised Defendants on the deadlines in this case, including the trial setting. See *Exhibit B*.

IV.

A copy of this Motion has been emailed and mailed to Defendants at their last known mailing address.

WHEREFORE, PREMISES CONSIDERED, Anthony G. Stergio, and Nallely I. Rodriguez respectfully request that the Court grant their motion and withdraw their names as attorneys of record in the above-styled and numbered cause.

Respectfully submitted,

/s/ Nallely I. Rodriguez
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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff and Counsel for Defendants conferred regarding this motion on December 16, 2024. Plaintiff is unopposed to this motion.

/s/ Nallely I. Rodriguez

NALLELY I. RODRIGUEZ

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2024, a true and correct copy of this document was served via the Court's electronic case filing system (CM/ECF) to all parties registered to receive such notice in the above captioned case.

/s/ Nallely I. Rodriguez

NALLELY I. RODRIGUEZ